

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 Richard and Loraine Gilroy, and the marital
11 community comprised thereof,

12 Plaintiffs,

13 v.

14 Seabourn Cruise Line, Ltd. D/b/a Seabourn
15 Cruise Line,

16 Defendant.

17 C12-107Z

18 MINUTE ORDER

19 The following Minute Order is made by direction of the Court, the Honorable Thomas
20 S. Zilly, United States District Judge:

21 (1) Plaintiffs' motion for certification pursuant to 28 U.S.C. § 1292(b), docket
22 no. 27, is DENIED. The issue of whether the United Nations Convention on the Recognition
23 and Enforcement of Foreign Arbitral Awards (New York 1958) (the "New York
24 Convention") applies is neither "a controlling question of law" nor a question as to which
25 "substantial ground for difference of opinion" exists. See McFarlin v. Conseco Servs., LLC,
381 F.3d 1251, 1259 (11th Cir. 2004) ("§ 1292(b) appeals were intended, and should be
reserved, for situations in which the court of appeals can rule on a pure, controlling question
of law without having to delve beyond the surface of the record in order to determine the
facts. The antithesis of a proper § 1292(b) appeal is one that turns on . . . whether the district
court properly applied settled law to the facts or evidence of a particular case." (citations
omitted)). Moreover, although an immediate appeal might serve to clarify whether the
parties must arbitrate, it would do so only in contravention of the FAA's goal of "mov[ing]
the parties to an arbitrable dispute out of court and into arbitration as quickly and easily as
possible." Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp., 460 U.S. 1, 22 (1983).

1 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
2 record and to the Clerk for the United States Court of Appeals for the Ninth Circuit.
3

4 Filed and entered this 8th day of June, 2012.
5

6 WILLIAM M. McCOOL, Clerk
7

8 s/ Claudia Hawney
9

10 By _____
11 Claudia Hawney
12 Deputy Clerk
13

14
15
16
17
18
19
20
21
22
23
24
25
26